REMARKS

I. Introduction

Claims 79-88 are pending in this application.

Claim 87[1] is objected to under 37 C.F.R. § 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claim 88 is rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Claims 79-88 are rejected under 35 U.S.C. § 102(b) as being anticipated by Myers et al. U.S. Patent No. 5,188,619 (hereinafter "Myers").

Applicants have amended claims 79 and 85 and new claims 96-104 have been added. No new matter has been added.

The Examiner's rejections are respectfully traversed.

II. Applicants' Reply to the Objection to Claim 87

The Examiner objected to claim 87 under 37 C.F.R. § 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants respectfully disagree.

Claim 87 specifies that the "means for delivering an implant" of claim 86 delivers the implant into the conduit. While claim 86 specifies that the implant is delivered with a predetermined angular relationship, claim 86 does not specify where the implant is delivered. As such, claim 87 necessarily limits the subject matter of claim 86.

Accordingly, applicants respectfully request that the objection to claim 87 be withdrawn.

---

[1] The Office Action specifies that claim 86 is objected to under 37 C.F.R § 1.75(c). Based on the Examiner's reasoning behind the objection, applicants believe the Examiner intended to object to claim 87.

III. Applicants' Reply to the § 112 Rejection

The Examiner rejected claim 88 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Applicants respectfully disagree.

The Examiner alleges the following:

> The independent claim states that the delivery device is delivered within the conduit, but claim 88 requires it to deliver outside the conduit. It is unclear how the device can do both. Page 2.

Applicants would first like to clarify that claim 88 requires that an implant be delivered at a location outside of the conduit whereas claim 86 specifies that the instrumentation is received substantially coaxially in the conduit. Applicants specification fully enables these claim features.

Applicants' specification discloses, for example, implanting anchors using the instrumentation (*see, e.g.*, para. 128). Applicants' specification discloses a variety of different anchor types. One exemplary anchor type is anchor structure 110. Applicants' specification states the following:

> Although anchor structure 110 is here preliminarily described as being implanted in coronary sinus 40, it will be understood that anchor structure 110 preferably extends through the wall of the coronary sinus into other adjacent tissue that helps to hold structure 110 securely in place in the heart. (Para. 58, emphasis added)

Other disclosed anchor types also extend through the conduit into adjacent tissue (*see, e.g.*, FIGS. 19 and 19a). Accordingly, applicants respectfully submit that it is clear how applicants' claimed instrumentation is received substantially coaxially in the conduit and an implant is delivered at a location outside of the conduit.

In view of the foregoing, applicants' claim 88 is fully enabled and applicants respectfully request that the § 112 rejection of claim 88 be withdrawn.

IV. Applicants' Reply to the § 102 Rejections

The Examiner rejected claims 79-88 under 35 U.S.C. § 102(b) as being anticipated by Myers. The Examiner's rejections are respectfully traversed.

A. Claims 79 and 80

Independent claim 79 is directed to a method of implanting structure in body tissue that includes an elongated, laterally curved, body tissue conduit. Delivery instrumentation is provided having an elongated portion that is laterally curved to approximately correspond to lateral curvature of the body tissue conduit. As amended, a cannulator is also provided that is more rigid than the delivery instrumentation. The cannulator and the delivery instrumentation are inserted substantially coaxially into the body tissue conduit. As amended, relative axial movement is provided between the cannulator and the delivery instrumentation so that the lateral curvature of the delivery instrumentation causes the delivery instrumentation to angularly orient itself relative to the body tissue conduit to superimpose the lateral curvature of the delivery instrumentation and the body tissue conduit on one another. Support for the amendments to claim 79 can be found, for example, at paragraph 127 of applicants' specification.

Myers is directed to an internal thoractic artery catheter. The catheter is described as having different curved portions. Myers teaches, for example, a method of inserting the catheter by using a guidewire and twisting the catheter to hook different conduits (see, e.g., FIGS. 11A-H).

Myers, however, fails to disclose applicants' claimed method. Myers does not disclose providing and inserting a cannulator that is more rigid than delivery instrumentation into a body tissue conduit. Myers also fails to disclose providing relative axial movement between a cannulator and delivery instrumentation so that lateral curvature of the delivery instrumentation causes the delivery instrumentation to angularly orient itself relative to the body tissue conduit to superimpose the lateral curvature of the delivery instrumentation and the body tissue conduit on one another.

Accordingly, applicants respectfully request that the rejection of independent claim 79 and dependent claim 80 be withdrawn.

B. Claims 81-84

Independent claim 81 is directed to an apparatus for implanting a structure in a laterally curved, elongated, body tissue conduit. The apparatus includes an elongated delivery instrumentation adapted to be received substantially coaxially in the conduit. The delivery instrumentation has lateral curvature corresponding to the lateral curvature of the conduit so that the delivery instrumentation tends to orient itself angularly about its longitudinal axis with its curvature substantially following the curvature of the conduit. The delivery instrumentation is adapted to deliver the structure into the conduit with a predetermined angular orientation about a longitudinal axis of the delivery instrumentation.

The Examiner states that Myers discloses using its catheter to deliver interventional apparatus such as probes and stents. The Examiner, however, does not indicate whether Myers discloses that its catheter can deliver structure into the conduit with a predetermined angular orientation about the longitudinal axis of the delivery instrumentation. Applicants

respectfully submit that Myers fails to disclose this feature of applicants' claims.

Accordingly, for at least this reason, applicants respectfully request that the rejection of independent claim 81 and dependent claims 82-84 be withdrawn.

C. Claims 85-88

Independent claim 85 is directed to an apparatus for use with a laterally curved, elongated body tissue conduit. The apparatus includes elongated instrumentation adapted to be received substantially coaxially in the conduit. As amended, the apparatus further includes a cannulator that is more rigid than the delivery instrumentation and is adapted to be received substantially coaxially in the conduit with the elongated instrumentation. The instrumentation has lateral curvature corresponding to the lateral curvature of the conduit so that the instrumentation tends to orient itself angularly about its longitudinal axis with its curvature substantially following the curvature of the conduit when removed from the cannulator. Support for the amendments to claim 79 can be found, for example, at paragraph 127 of applicants' specification.

Independent claim 85 is an apparatus claim that includes features that are similar to features in independent method claim 79 discussed above. For similar reasons discussed in section IV(A), applicants respectfully submit that Myers does not disclose (a) a cannulator that is more rigid than delivery instrumentation and (b) instrumentation having lateral curvature corresponding to the lateral curvature of a conduit so that the instrumentation, when removed from the cannulator, tends to orient itself angularly about its longitudinal axis with its curvature substantially following the curvature of the conduit as required by independent claim 85.

Accordingly, for at least these reasons, applicants respectfully request that the rejection of independent claim 85 and dependent claims 86-88 be withdrawn.

V. New Dependent Claims 96-104

Applicants have added new dependent claims 96-104. New claims 96-104 generally specify that (a) the body tissue conduit is the coronary sinus, (b) the structure or implant is an anchor, or (c) the anchor is a helical anchor. Support for new claims 96-104 can be found, for example at paragraphs 67, 127, and 128 of applicants' specification. No new matter has been added.

New claims 96-104 should be found to be allowable at least because their corresponding independent claims are allowable as demonstrated above.

VI. Conclusion

For at least the foregoing reasons, applicants respectfully submit that this application is in condition for allowance.

Accordingly, prompt reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,

/James A. Leiz/

James A. Leiz
Reg. No. 46,109
Attorney for Applicants
ROPES & GRAY LLP
PATENT DOCKETING 39/361
Customer No. 1473
1211 Avenue of the Americas
New York, New York 10036
Tel.: (212) 596-9000
Fax: (212) 596-9090